



JAMES G. DIBBINI
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Don't Let Rent Go Stale: What Every NY Landlord Needs to Know

Landlords of all residential units—whether rent stabilized or fair market—should be aware of a legal doctrine in New York Housing Court known as “Stale Rent.” This concept refers to a situation where a landlord waits too long to enforce their rights by failing to commence an eviction proceeding against a tenant for nonpayment of rent that is more than six (6) months old.

In these circumstances, Housing Court may determine that the landlord’s delay was “inexcusable” and, while the court might still award a money judgment for the unpaid rent, the judge may refuse to issue a warrant of eviction. In other words, even if your tenant owes months of unpaid rent, you may not be allowed to evict them if the arrears are considered “stale.”

This doctrine is rooted in equitable principles such as laches and waiver, and although not codified, it is regularly applied at the discretion of Housing Court judges.

□ **Key Takeaways for Landlords**

- **6-Month Rule of Thumb:** If rent arrears are older than six months and no eviction proceeding has been initiated, courts may view the delay as a waiver of your right to seek eviction.
- **No Warrant of Eviction:** Even with proof of unpaid rent, judges can—and often do—deny eviction if they find a pattern of inaction by the landlord.
- **Money Judgment Still Possible:** You may still receive a money judgment for the arrears, but enforcement without possession is often of limited practical value.
- **Applies to All Units:** This doctrine has been applied to both rent stabilized and free-market apartments.

□ **Don't Wait to Act**

At James G. Dibbini & Associates, P.C., we urge our clients to act immediately when tenants fall behind on rent. Delays can mean the difference between recovering your property or being left with an unenforceable judgment. If you have a tenant who has not paid rent in several months, we strongly recommend contacting our office to discuss your situation.

We can help you determine:

- Whether your rent claim may be considered “stale”;
- Whether your delay might be deemed “inexcusable” by the court;
- What actions you should take right now to protect your interests.

□ **What If the Rent Is Stale?**

If Housing Court denies your ability to evict due to stale rent, you may still

have other options:

1. Pursue a Civil Action: File a breach-of-contract case in Supreme or Civil Court (subject to a 6-year statute of limitations).
2. Leverage the Security Deposit: Apply it lawfully toward arrears if permitted.
3. Use Collections Services: Consider sending the account to a collection agency.
4. Report to Credit Bureaus: If compliant with the Fair Credit Reporting Act and NYS laws.

Each option has legal and financial risks. Speak with our attorneys before proceeding.

☐ **Prevention: The Best Strategy**

Landlords and property managers should maintain systems that flag nonpayment immediately and enforce lease terms without delay. We recommend:

- Monthly arrears tracking;
- Prompt rent demand notices;
- Timely nonpayment petitions;
- Clear documentation of tenant interactions.

Being proactive is the best way to avoid a stale rent problem.

☐ **Contact Us Today**

If you're unsure about your rights, or think you may be dealing with stale rent, let us help.

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